

responsible (as provided in § 982.404(b) and § 982.551(c)). (However, the HA may terminate assistance to a family because of HQS breach caused by the family.)

(b) *Family obligation.* (1) The family is responsible for a breach of the HQS that is caused by any of the following:

(i) The family fails to pay for any utilities that the owner is not required to pay for, but which are to be paid by the tenant;

(ii) The family fails to provide and maintain any appliances that the owner is not required to provide, but which are to be provided by the tenant; or

(iii) Any member of the household or guest damages the dwelling unit or premises (damages beyond ordinary wear and tear).

(2) If an HQS breach caused by the family is life threatening, the family must correct the defect within no more than 24 hours. For other family-caused defects, the family must correct the defect within no more than 30 calendar days (or any HA-approved extension).

(3) If the family has caused a breach of the HQS, the HA must take prompt and vigorous action to enforce the family obligations. The HA may terminate assistance for the family in accordance with § 982.552.

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[60 FR 34695, July 3, 1995, as amended at 60 FR 45661, Sept. 1, 1995]

#### **§ 982.405 HA periodic unit inspection.**

(a) The HA must inspect the unit leased to a family at least annually, and at other times as needed, to determine if the unit meets HQS.

(b) The HA must conduct supervisory quality control HQS inspections.

(c) In scheduling inspections, the HA must consider complaints and any other information brought to the attention of the HA.

(d) The HA must notify the owner of defects shown by the inspection.

(e) The HA may not charge the family or owner for initial inspection or re-inspection of the unit.

#### **§ 982.406 Enforcement of HQS.**

Part 982 does not create any right of the family, or any party other than

HUD or the HA, to require enforcement of the HQS requirements by HUD or the HA, or to assert any claim against HUD or the HA, for damages, injunction or other relief, for alleged failure to enforce the HQS.

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### **Subpart J—Housing Assistance Payments Contract and Owner Responsibility**

SOURCE: 60 FR 34695, July 3, 1995, unless otherwise noted.

#### **§ 982.451 Housing assistance payments contract.**

(a)(1) The HAP contract must be in the form required by HUD.

(2) The term of the HAP contract is the same as the term of the lease.

(b)(1) The amount of the monthly housing assistance payment by the HA to the owner is determined by the HA in accordance with HUD regulations and other requirements. The amount of the housing assistance payment is subject to change during the HAP contract term.

(2) The monthly housing assistance payment by the HA is credited toward the monthly rent to owner under the family's lease.

(3) The total of rent paid by the tenant plus the HA housing assistance payment to the owner may not be more than the rent to owner. The owner must immediately return any excess payment to the HA.

(4)(i) The part of the rent to owner which is paid by the tenant may not be more than:

(A) The rent to owner; minus

(B) The HA housing assistance payment to the owner.

(ii) The owner may not demand or accept any rent payment from the tenant in excess of this maximum, and must immediately return any excess rent payment to the tenant.

(iii) The family is not responsible for payment of the portion of rent to owner covered by the housing assistance payment under the HAP contract

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between the owner and the HA. See § 982.310(b).

(5) The HA must pay the housing assistance payment promptly when due to the owner in accordance with the HAP contract. If the HA fails to make timely payment, the HA may be obligated to pay a late payment fee in accordance with State or local law. However, unless another source is authorized by HUD the HA may only use the following sources for payment of any such late payment fee:

- (i) Administrative fee income; or
- (ii) The administrative fee reserve.

[60 FR 34695, July 3, 1995, as amended at 61 FR 27163, May 30, 1996; 63 FR 23861, Apr. 30, 1998]

### § 982.452 Owner responsibilities.

(a) The owner is responsible for performing all of the owner's obligations under the HAP contract and the lease.

(b) The owner is responsible for:

(1) Performing all management and rental functions for the assisted unit, including selecting a certificate-holder or voucher-holder to lease the unit, and deciding if the family is suitable for tenancy of the unit.

(2) Maintaining the unit in accordance with HQS, including performance of ordinary and extraordinary maintenance. For provisions on family maintenance responsibilities, see § 982.404(a)(4).

(3) Complying with equal opportunity requirements.

(4) Preparing and furnishing to the HA information required under the HAP contract.

(5) Collecting from the family:

- (i) Any security deposit.
- (ii) The tenant contribution (the part of rent to owner not covered by the housing assistance payment).
- (iii) Any charges for unit damage by the family.

(6) Enforcing tenant obligations under the lease.

(7) Paying for utilities and services (unless paid by the family under the lease).

(c) For provisions on modifications to a dwelling unit occupied or to be occu-

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pled by a disabled person, see 24 CFR 100.203.

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### § 982.453 Owner breach of contract.

(a) Any of the following actions by the owner (including a principal or other interested party) is a breach of the HAP contract by the owner:

(1) If the owner has violated any obligation under the HAP contract for the dwelling unit, including the owner's obligation to maintain the unit in accordance with the HQS.

(2) If the owner has violated any obligation under any other housing assistance payments contract under Section 8 of the 1937 Act (42 U.S.C. 1437f).

(3) If the owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.

(4) For projects with mortgages insured by HUD or loans made by HUD, if the owner has failed to comply with the regulations for the applicable mortgage insurance or loan program, with the mortgage or mortgage note, or with the regulatory agreement; or if the owner has committed fraud, bribery or any other corrupt or criminal act in connection with the mortgage or loan.

(5) If the owner has engaged in drug-trafficking.

(b) The HA rights and remedies against the owner under the HAP contract include recovery of overpayments, abatement or other reduction of housing assistance payments, termination of housing assistance payments, and termination of the HAP contract.

### § 982.454 Termination of HAP contract: Insufficient funding.

The HA may terminate the HAP contract if the HA determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program. See § 982.455 concerning owner notice of termination.